

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CYRUS Y. KIM,

Plaintiff(s),

v.

TARGA REAL ESTATE SERVICE, INC. CITY
OF FEDERAL WAY, ABT TOWING OF
FEDERAL WAY, INC., and JUDGE MICHAEL
HEAVEY,

Defendant(s).

NO. C07-358P

ORDER DENYING MOTION FOR
RECONSIDERATION

On May 16, 2007, this Court issued an Order of Dismissal in the above-entitled matter. Dkt. No. 5. The order was based on deficiencies in Plaintiff's pleadings; namely, that Plaintiff's claims were either time-barred, subject to collateral estoppel or res judicata or barred by judicial immunity. The Court issued an Order to Show Cause why his complaint should not be dismissed. Dkt. No. 2.

The Order of Dismissal was issued in the belief that all Plaintiff had filed in response to the OSC was an amended complaint (Dkt. No. 4), which the Court found did not adequately address the deficiencies enumerated in the OSC. Plaintiff has filed a Motion for Reconsideration, drawing the Court's attention to a pleading he filed in response to the OSC which was not considered by this Court. Dkt. No. 7.

A review of the docket indicates that Plaintiff did in fact file the response which was requested. For reasons that remain unclear, his response was noted in the docket as a "Proposed Order (Unsigned) re Order to Show Cause" (Dkt. No. 3) and was therefore overlooked at the time the Order of Dismissal was prepared. The Court apologizes to Plaintiff for this oversight.

1 Having reviewed Plaintiff's "Showing of Cause," however, the Court's findings regarding the
2 inadequacy of his complaint remain unchanged. His pleading completely fails to address the fact that
3 (with the exception of Judge Heavey's ruling) all the incidents for which he seeks redress occurred
4 well outside of the statute of limitations. His statute of limitations argument focuses solely on Judge
5 Heavey's ruling (Showing of Cause, pp. 1-2), which is completely irrelevant to the damages he claims
6 from the towing and impound of his automobile in 1999 and 2000.

7 His "Showing of Cause" professes ignorance of the concept of "absolute judicial immunity"
8 and promises the filing of an amended complaint which will "amend the 'cause of action' and the
9 'demand for judgment' as below." Showing of Cause, p. 2. However, as noted in the Order of
10 Dismissal, his amended complaint fails to state any grounds on which his claims against Judge Heavey
11 constitute exceptions to the rule of judicial immunity.

12 Conclusion

13 Plaintiff's Motion for Reconsideration is correct in pointing out that, in entering a dismissal of
14 his action, the Court failed to consider his responsive pleading to the Order to Show Cause. The
15 Court has now reviewed Plaintiff's response and finds that it fails to establish that any of his claims
16 state adequate grounds on which relief may be granted.

17 Plaintiff's Motion for Reconsideration is therefore DENIED, and the dismissal of this action
18 will stand.

19 The clerk is directed to provide copies of this order to all counsel of record.

20 Dated: June 1, 2007

21 

22 Marsha J. Pechman
23 U.S. District Judge
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